

2001-2002 SANTA CLARA COUNTY CIVIL GRAND JURY

EVALUATION OF RESPONSES TO THE 2000-2001 CIVIL GRAND JURY FINAL REPORT

INTRODUCTION

PURPOSE

The 2001-2002 Santa Clara County Civil Grand Jury continued the process of evaluating the responses to the previous year's Grand Jury Final Report in order to provide continuity from year to year. This practice provides a mechanism for each Grand Jury to monitor the status of commitments made by affected agencies in their responses to the findings and recommendations contained in the individual reports.

BACKGROUND

The 2000-2001 Civil Grand Jury Final Reports were sent out between July 19 and 23, 2001. The transmittal letter included a reference to Penal Code Sections 933(c) for the response time, and 933.05 as a guideline for the comment format. An attachment of the California Penal Code 933.05, in relevant part, was also included in the transmittal to aid the response writers in the preparation of their comments.

Penal Code Section 933(a) requires the Grand Jury to "...submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal year...." Section 933 also requires comments to the presiding judge of the superior court on these findings and recommendations from the

affected "governing body, elected county officer or agency head."

The answers or comments submitted by the "governing body, elected county officer or agency head" were evaluated by this year's Grand Jury against the requirements of Penal Code 933.05 (Attachment 1), which requires the agency to:

- A. Agree or disagree (wholly or partially) with the findings, and
- B. Provide one of four possible responses to each recommendation.

Enforcement of the penal code requirements is the responsibility of the presiding judge of the superior court. Evaluation of compliance with this penal code requirement is the responsibility of the county superior court judge and, by delegation, the Grand Jury. The absence of a response to the specific findings (agree or disagree) and recommendations in the report are considered by the Grand Jury to be unacceptable responses to the penal code requirements.

The 2000-2001 Santa Clara County Civil Grand Jury Final Report contained 13 individual reports. Comments were received from all affected agencies within the time required by the penal code. Two individual reports were sent with transmittal letters that did not request a 60- or 90-day response. The

13 individual reports, along with the comments submitted by the responding agencies or departments, were reviewed by the Grand Jury to assess whether the penal code criteria had been satisfied. The Grand Jury made judgments on how to categorize some of the responses since there are no standards for assessing for completeness or accuracy. Reports that presented unresolved issues are summarized in Attachment 2.

The findings section of the reports were inconsistent in that some had numbered findings, others had sub-titles to separate subject areas, while others had only paragraph breaks between subject areas. Six of the 13 reports did not number their findings. When a response contained a comment regarding any part of the findings contained in the report, it was deemed to satisfy the requirements of the penal code.

FACTS

The Grand Jury's analysis of both the individual 2000-2001 reports and the agency responses are summarized below.

1. Review of the Santa Clara County Department of Family and Children's Services

This report contained six unnumbered findings and three recommendations. Recommendations 1 and 2 were addressed to the board of supervisors and the director of social services. Recommendation 3 was addressed to the director of social services.

The comments returned by the county were prepared by the social services agency on August 6, 2001, and approved by the board of supervisors on October 16, 2001. The response did not clearly

address the findings. The department's response indicated they agreed with four of the six subject areas contained in the findings section of the report. The other two findings are not mentioned.

The response to recommendation 2 clearly states that the recommendation has been implemented. The responses to recommendations 1 and 3 were ambiguous. The ambiguity is attributed to the following comments contained in the responses.

Recommendation 1: "Planning to begin meaningful caseload reduction is primarily contingent on significant and sustained Federal and State financial contributions."

Recommendation 3: "The Department continues to make steady progress towards fuller utilization of CWS/CMS [The California Department of Social Services, Child Welfare Services Case Management System] through the social work supervisors, informal peer support and the formal support of the Information System staff."

2. Review of the Redevelopment Agency of the City of San Jose

There were five unnumbered findings and two recommendations in this Grand Jury report. Recommendation 1 was addressed to the City of San Jose and the Redevelopment Agency (RDA) of the City of San Jose. Recommendation 2 was addressed to the County of Santa Clara and the City of San Jose.

The comments returned by the city of San Jose were prepared by the city attorney and approved by the RDA board on October 16, 2001. The responses were clearly written, addressing each of the findings and

recommendations as required by the penal code.

The comments returned by the county were prepared by the county executive and approved by the board of supervisors on October 16, 2001. The response did not clearly address the findings or recommendation 2. The county's response to the report was: "Although this report is directed primarily to the City of San Jose...the Grand Jury's second recommendation concerns the County of Santa Clara, and it is to this recommendation that we are submitting this response: ..." The county's response to recommendation 2 was: "The County determined that the settlement was in the best interest of the citizens that we serve..."

3. Review of the Santa Clara County Vector Control District Wildlife Policy

The report contained six numbered findings and four recommendations. Recommendations 1 through 3 were addressed to the Santa Clara County Vector Control District and the Santa Clara County Department of Environmental Health. Recommendation 4 was addressed to the Santa Clara County Board of Supervisors.

The county comments to the report were prepared by the county environmental resources agency, on September 17, 2001, and approved by the board on October 16, 2001. The response clearly stated that environmental health services and the county agreed with findings 1, 2, and 4, and they disagreed with finding 6. An explanation was provided as required by the penal code.

The county clearly stated in its response that: it has implemented recommendation

1; it will not implement recommendation 2; and it will implement recommendation 3. A timeline for completion of recommendation 3 was provided. The county responded to recommendation 4: "This recommendation is already being implemented..." A tentative completion date of the summer of 2003 was provided.

4. Review of the City of San Jose's Use of the Redevelopment Agency's 20 Percent Low and Moderate Income Housing Fund

There were 13 numbered findings and 17 recommendations contained in the report. Recommendations 1 through 14 were addressed to the San Jose Housing Department. Recommendations 15 through 17 were addressed to the San Jose City Council and RDA board. The response comments were prepared by the city housing department and approved by the San Jose City Council on October 16, 2001. The responses clearly stated that they: agreed with findings 1, 8, 9, 10 and 13; partially agreed with findings 2, 3 and 12 and provided explanations for the reason; and disagreed with findings 4, 5, 6, 7 and 11 and provided explanations.

The responses to the recommendations were clearly written in conformance to the requirements of the penal code.

5. Review of the Santa Clara County Management Audit Function Performed Under Contract by Harvey Rose Accountancy Corporation

The report contained 23 numbered findings and five recommendations. Recommendations 1 through 4 were addressed to the board of supervisors and recommendation 5 was addressed to the county assessor.

The assessor's comments on the report's findings and recommendations were prepared on September 21, 2001, and delivered to the presiding judge on September 24, 2001. The county's comments were prepared by the county executive on October 4, 2001, and approved by the board of supervisors on October 16, 2001.

The assessor commented on findings 15, 16 and 20, as well as one of the conclusions reached by the Grand Jury. The assessor used the following terms in his response: misleading and untrue, misleading and incorrect and false. The response from the county was that they "...reviewed the recommendations and conclusions included in the report...."

The assessor responded to recommendation 5 by disagreeing. The county's comments on recommendations 1 through 4 were lengthy and detailed, explaining the current processes or positions to each recommendation.

6. Inspection of the Men's Work Furlough Program

The report section titled Findings appears to contain four subjects that could be individual findings: status of prior year's recommendations; maintenance inadequacies; a "jimmied" cover; and rules violations. There were five recommendations contained in the report. Recommendations 1 through 3 were addressed to the board of supervisors and the county probation department. Recommendations 4 and 5 were addressed to the board of supervisors and the general services agency.

Comments were prepared by the county probation department on August 21, 2001, and approved by the board of

supervisors on October 16, 2001. The county's comments did not address the findings section of the report.

The responses to the recommendations stated that probation/county agreed with recommendations 1, 3, 4 and 5, with explanations. The response to recommendation 2 indicates it will not be implemented due to budget constraints.

7. Inquiry into the City of San Jose Fire Department Transfer and Assignment Policy

The report contained one finding and no recommendation.

Comments were prepared by the city's director of employee relations and approved by the city council on October 16, 2001. The response clearly stated that the city agreed with the finding.

8. Inquiry into Alleged Improprieties by the Mayor Including Misuse of City of San Jose Funds

The report contained four numbered findings and one recommendation. The recommendation was addressed to the San Jose City Council.

Comments on the report were prepared by the San Jose City Attorney on October 11, 2001, and approved by the city council on October 16, 2001. The city clearly stated that it agreed with all finding.

In responding to the recommendations, the city attorney, recommended to the city council that it adopt "...the current management practice...as a policy". The transmittal letter relating to the Grand Jury report, which was sent from the City of San Jose to the presiding judge, on October 22, 2001, included a footnote

stating, “The City Council also directed that the City Administration implement a nepotism policy in addition to the no-fraternization policy approved in its discussion of the response to this report.”

9. Inquiry into Whether the City of Mountain View is in Violation of Proposition 218

Four numbered findings and no recommendations were contained in the report. This report was sent to the City of Mountain View as a courtesy copy. No response was requested by the 2000-2001 Grand Jury.

10. Inquiry into the City of San Jose Police Department’s “Use-of-Force” Training

The report contained five numbered findings and no recommendations.

Comments were prepared by the city’s police department and approved by the city council on October 16, 2001. The responses clearly stated that the city agreed with the findings.

11. Inquiry into Use-of-Force Training Policies--Santa Clara County Departments and Municipalities

The report contained four numbered findings and no recommendations. The report was sent to all the affected agencies as a courtesy copy. No responses were requested by the 2000-2001 Grand Jury.

12. Review of Santa Clara County Audited Financial Reports

No findings or recommendations were identified in the report. A conclusion statement was included in the report.

13. Evaluation of Responses to the 1999-2000 Civil Grand Jury Final Report

This report contained one paragraph under findings, and one unnumbered and four numbered recommendations. These recommendations were a result of the 2000-2001 Grand Jury’s analysis of the comments submitted to the 1999-2000 Grand Jury Final Report. The recommendations as written combined the Grand Jury’s finding and recommendation. Responses that the 2000-2001 Grand Jury considered incomplete, or not responsive to the report’s recommendations were identified and additional comments solicited from the affected organizations. The Santa Clara County Office of Education, Santa Clara County Board of Supervisors, San Jose City Council and the Los Gatos Town Council were sent copies of the report and responded as requested.

CONCLUSIONS

1. Thirty-five percent of the 2000-2001 Grand Jury recommendations were reported to have been implemented by the affected agencies.
2. The Grand Jury reports that included numbered findings and recommendations received clearer responses. Therefore, future Grand Juries are encouraged to number report findings and recommendations.
3. None of the reports referenced the recommendation(s) back to finding(s).
4. The Grand Jury report should clearly state when a response is not necessary to save time and effort by both the Grand Jury and the affected agency.
5. Responses to two reports, San Jose’s Use of the Redevelopment Agency’s 20% Low-Moderate Income Housing Fund and Inspection of the Men’s Work

Furlough Program, indicated that there was a need to further evaluate or analyze the recommendation. The penal code states that the timeframe to complete the analysis should not exceed six months from the date of the publication of the Grand Jury Final Report.

6. Each Grand Jury should confirm that agencies requesting time for further analysis before responding to final report recommendations have completed their written response to the presiding judge as required by the penal code.

7. Each Grand Jury should confirm agencies agreeing with previous Final Report recommendations have implemented the recommendations as promised.

ATTACHMENT 1

California Penal Code 933.05, in relevant part:

933.05. Responses to findings

(a) For the purpose of subdivision (b) of section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

(b) For the purposes of subdivision (b) of section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. The timeframe shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

ATTACHMENT 2

Responses to the 2000-2001 Civil Grand Jury Final Report

Summary Comments or issues

After reviewing the responses to the 2000-2001 Grand Jury reports the following issues or concerns were noted.

1. Family and Children's Services report (Reference page 2)
There were no comments to two of the findings.
2. San Jose Redevelopment Agency report (Reference page 3)
Response comments on finding two was not clear.
3. Vector Control District report (Reference page 4)
There were no comments to finding three.
Follow up on response to recommendation four to validate that new facilities are completed in 2003.
4. Men's Work Furlough Program report (Reference page 6)
There were no comments to the findings.

PASSED and **ADOPTED** by the Santa Clara County Civil Grand Jury this 25th day of April 2002.

Bruce E. Capron
Foreperson

Norman N. Abrahams, DDS
Foreperson Pro Tem

Joyce S. Byrne
Secretary